

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF DELAWARE

HELEN D. MARTIN, *Pro se*  
Plaintiff

v.

PACHULSKI, STANG, ZIEHL,  
YOUNG & JONES, P.C.,  
Defendant

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C.A. No.: 06-303 (GMS)

**ANSWER**

NOW COMES, Pachulski, Stang, Zeihl, Young & Jones, P.C., Defendant in the above-captioned matter, which Answers the Complaint as follows:

1. Admitted that Plaintiff is an adult individual. Defendant is without sufficient information or belief to admit or deny her residence.
2. Admitted.
3. This paragraph states a legal conclusion to which a responsive pleading is not required.
4. This paragraph states a legal conclusion to which a responsive pleading is not required.
5. Admitted that Plaintiff began employment on January 10, 2000. Admitted that she was a file room supervisor.
6. This paragraph fails to allege facts or state a claim for relief. Denied that Plaintiff was ever subjected to a hostile work environment or discriminated against because of her race.
7. This paragraph fails to allege facts or state a claim for relief. Admitted that Plaintiff resigned her employment on January 13, 2003 effective January 27, 2003. Denied that Plaintiff

was forced to quit her employment as a result of Defendant's conduct or under circumstances amounting to a constructive discharge.

8. Denied.

9. Denied.

10. Admitted that Plaintiff filed administrative claims with the Delaware Department of Labor and the Equal Opportunity Commission.

11. Defendant is without sufficient information or belief to affirm or deny when the Plaintiff received notice that her charge would be dismissed by the EEOC. Denied that the complaint is timely filed.

#### **AFFIRMATIVE DEFENSES**

**FIRST:** The Complaint fails to state a claim(s) upon which relief may be granted.

**SECOND:** The complaint was untimely and barred by the applicable statutes of limitations.

**THIRD:** Plaintiff failed to exhaust her administrative remedies and/or to comply with conditions precedent to filing suit.

**FOURTH:** Plaintiff failed to mitigate her damages.

**FIFTH:** Defendant is not a state actor or acting under color of state law within the meaning of 42 USC § 1983.

**SIXTH:** Plaintiff's complaint is frivolous, without any basis in fact, in violation of F.R.C. Pro. 11 and otherwise entitling Defendant to recover its costs and expenses, including its attorneys' fees.

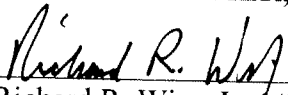
**SEVENTH:** Plaintiff has unclean hands.

**EIGHTH:** The Court lacks jurisdiction over state law claims, if any, and/or should not exercise jurisdiction over any such claims.

**WHEREFORE,** Defendant prays that the Complaint be dismissed and that judgment be entered in its favor together with its costs, expenses, attorneys' fees and such other relief as may be just and equitable under the circumstances.

RESPECTFULLY SUBMITTED,

**RICHARD R. WIER, JR., P.A.**

  
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302.888.3222  
Attorneys for Defendant

DATED: November 24, 2006

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF DELAWARE

HELEN D. MARTIN, *Pro Se*  
Plaintiff

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PACHULSKI, STANG, ZIEHL,  
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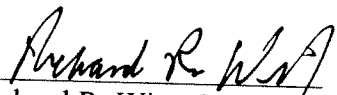
C.A. No.: 06-303 (GMS)

CERTIFICATE OF SERVICE

I certify that on this 24<sup>th</sup> day of November 2006, I electronically filed the attached document with the Clerk using CM/ECF and two copies of the attached Answer have been served BY FIRST CLASS MAIL and BY HAND on:

Helen D. Martin, *pro se*  
616 W. 8<sup>th</sup> Street  
Wilmington, DE 19801

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Attorney for Defendant

DATED: November 24, 2006